

ORDINANCE NO. 31

SERIES 2018

AN ORDINANCE OF THE CRESTED BUTTE TOWN COUNCIL TO APPROVE STIPULATION REGARDING OWNERSHIP AND EASEMENTS FOR THE HEIGHTS OPEN SPACE PROPERTY AND FOR DISMISSAL OF ACTION IN CIVIL ACTION NO. 2018-CV-30008, GUNNISON COUNTY DISTRICT COURT

WHEREAS, the Town of Crested Butte, Colorado (the "**Town**") is a home rule municipality duly and regularly organized and now validly existing as a body corporate and politic under and by the Constitution and the laws of the State of Colorado;

WHEREAS, the Town Council is authorized pursuant to § 14.4 of the Town Charter to sell and convey Town-owned property;

WHEREAS, the Town owns an interest in certain real property commonly known as the Heights Open Space pursuant to a quit claim deed from Trappers Crossing, Ltd., dated January 5, 2018, recorded January 5, 2018, at reception No. 651146 of the Gunnison County Clerk and Recorder, a copy of which is attached hereto as **Exhibit A** ("Town Deed");

WHEREAS, the Town is the Defendant in a civil action filed by the owners of the 12 Sites in the Heights at Crested Butte Subdivision as Plaintiffs, captioned *R&S Journey's End LLC, et al v. Town of Crested Butte, et al*, Case No. 2018-CV-30008, Gunnison County District Court (the "Action");

WHEREAS, following mediation on November 12, 2018, the Town and the Plaintiffs in the Action have agreed to a Stipulation, a copy of which is attached hereto as **Exhibit B**, and under which the Town will own Easements to use all or part of the Heights Open Space for avalanche mitigation, non-motorized recreational uses and a frisbee golf course, Plaintiffs will own title to the Open Space, and the Action will be dismissed; and,

WHEREAS, the Town Council hereby finds that it is necessary and suitable, and in the best interest of the Town and the health, safety and welfare of the residents and visitors of Crested Butte, that the Stipulation be approved, as set forth hereinbelow.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CRESTED BUTTE, COLORADO, THAT,

Section 1. Authorization to Enter into Stipulation. The Town Council, pursuant to the Crested Butte Town Charter and the laws of the State of Colorado, hereby authorizes the Town to enter into the Stipulation in the form attached hereto as Exhibit B. The Town Council further authorizes and directs the Town Manager, the Town Attorney and the Town Clerk to appropriately execute any additional documents necessary and appropriate to consummate the Stipulation following approval thereof by the Town Attorney.

Section 2. Severability. If any section, sentence, clause, phrase, word or other provision of this ordinance is for any reason held to be unconstitutional or otherwise invalid, such holding shall not affect the validity of the remaining sections, sentences, clauses, phrases, words or other provisions of this ordinance, or the validity of this ordinance shall stand notwithstanding the invalidity of any section, sentence, clause, phrase, word or other provision.

Section 3. Savings Clause. Except as amended hereby, the Crested Butte Municipal Code, as amended, shall remain valid and in full force and effect. Any provision of any ordinance previously adopted by the Town which conflicts with this ordinance is hereby repealed as of the enforcement date hereof.

INTRODUCED, READ AND SET FOR PUBLIC HEARING THIS 17th DAY OF DECEMBER, 2018.

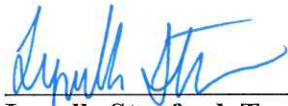
ADOPTED BY THE TOWN COUNCIL UPON SECOND READING IN PUBLIC HEARING THIS 1st DAY OF January, 2019.

TOWN OF CRESTED BUTTE, COLORADO

By: 

James A. Schmidt, Mayor

ATTEST:



Lynelle Stanford, Town Clerk

